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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,448	02/12/2004	Bruce K. Zeller	34985.0200	8982
20322	7590	10/27/2006		
SNELL & WILMER 400 EAST VAN BUREN ONE ARIZONA CENTER PHOENIX, AZ 85004-2202			EXAMINER JOERGER, KAITLIN S	
			ART UNIT 3653	PAPER NUMBER

DATE MAILED: 10/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/779,448	ZELLER, BRUCE K.	
	Examiner	Art Unit	
	Kaitlin S. Joerger	3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-25 and 30-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-25 and 30-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 6, 7, 9-12, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hart (5,927,513) in view of Hartmann (590,571).

Hart teaches an apparatus for separating comprising: a frame, 16; an adjustable screen, 14, position over top of the frame; a removable trough, 120; and a motor, 74. The apparatus further comprises a wheel, 36. The adjustable screen includes a lip member, 60 and 62, a plurality of vertical support bars, 48, 50, and 55; and horizontal cross members 52 and 54. The trough includes a lip and handles, see figure 6. The motor is attached to at least one horizontal cross member, 54, via a mounting plate, see figure 4. The apparatus further comprises a vertical bar member of adjustable height, 30 and 32, see column 3, lines 40+.

Hart teaches all of the limitations of the claimed invention except for a platform attached to the frame for supporting the removable trough, wherein the removable trough is not connected to the frame. Hartmann teaches a portable screening apparatus with a removable trough, k, that is supported on a platform, l.

It would have been obvious to one of ordinary skill in the art to use the platform and removable trough of Hartmann with the portable separator taught by Hart in order to easily transport the trough to dump the oversize pieces at a different location.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hart (5,927,513) in view of Haffner (3,307,698).

Hart teaches all of the features of the claimed invention, including a vertical bar member, 30 and 32, of adjustable height attached to the bottom surface of the screen. Hart does not however teach a tow bar attached to the front end of the frame. Haffner teaches separating apparatus that includes a tow bar, 26, attached to the frame. He further teaches support bar, 32, attached to the tow bar, 26.

It would have been obvious to one of ordinary skill in the art to include the tow bar of Haffner on the frame of the separating apparatus of Hart in order to attach the separator to a vehicle in order to more easily move it to different locations.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hart (5,927,513) in view of Haffner (3,307,698) as applied to claim 4 above, and further in view of Myer (1,011,889).

Hart teaches all the limitation of the claimed invention except for a crank shaft attached to the vertical bar member for adjusting the height of the vertical bar member. Haffner teaches a crank handle, 46, attached to a vertical bar member, 44, for adjusting the height of the bar, however, the bar member of Haffner is a leg member and is not attached to the bottom surface of the screen member.

Myer teaches a crank handle, 43, connected to vertical bar member, 47, which is connected to an underside of a screen member, see figure 3. It would have been obvious to one

Art Unit: 3653

of ordinary skill in the art to use the crank arm of Myer on the adjustable height vertical member of Hart in order to make it easier to adjust the height of the screen member.

Claims 13, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hart (5,927,513) in view of Bellany et al. (5,855,352).

Hart teaches all of the limitations of the claimed invention except for the mounting brackets. Bellany et al. teaches mounting brackets for mounting for connecting two rigid elements, see column 1, lines 1-3, wherein the brackets comprise an opening for retaining the horizontal cross bar member, see the center of figure 2,. The brackets further comprise an outer layer8 and 2, middle layer, 3, and inner layer, 1, see figure 2. Bellany et al. further teaches that the middle layer comprises and isolation material, see column 2, lines 15+.

It would have been obvious to one of ordinary skill in the art to use the mounting brackets of Bellany et al. on the separating screen of Hart in order to damp vibratory motion between the two rigid elements, the vibrating screen assembly and the cross bar members, of Hart.

Claims 18-21, 23-25,, 30, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hart (5,927,513) in view of Bellany et al. (5,855,352).

Hart teaches an apparatus for separating comprising: a frame, 16; an adjustable screen, 14, position over top of the frame, where a first end of the screen is connected to a first end of the frame and a second end of the screen is connected to the second end of the frame; a removable trough, 120; and a motor, 74.

Art Unit: 3653

The apparatus further including a vertical bar member, 30 and 32, of adjustable height attached to the bottom surface of the screen; a wheel, 36. The adjustable screen includes a lip member, 60 and 62, a plurality of vertical support bars, 48, 50, and 55; and horizontal cross members 52 and 54. The trough includes a lip and handles, see figure 6. The motor is attached to at least one horizontal cross member, 54, via a mounting plate, see figure 4.

Hart teaches all of the limitations of the claimed invention except for the mounting brackets. Bellany et al. teaches mounting brackets for mounting for connecting two rigid elements, see column 1, lines 1-3, wherein the brackets comprise an opening for retaining the horizontal cross bar member, see the center of figure 2,. The brackets further comprise an outer layer 8 and 2, middle layer, 3, and inner layer, 1, see figure 2. Bellany et al. further teaches that the middle layer comprises and isolation material, see column 2, lines 15+.

It would have been obvious to one of ordinary skill in the art to use the mounting brackets of Bellany et al. on the separating screen of Hart in order to damp vibratory motion between the two rigid elements, the vibrating screen assembly and the cross bar members, of Hart.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hart (5,827,513) in view of Hartmann (590,571)..

Hart teaches all of the limitations of the claimed invention except for a platform attached to the frame for supporting the removable trough. Hartmann teaches a portable screening apparatus with a removable trough, k, that is supported on a platform, l.

Art Unit: 3653

It would have been obvious to one of ordinary skill in the art to use the platform and removable trough of Hartmann with the portable separator taught by Hart in order to easily transport the trough to dump the oversize pieces at a different location.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hart (5,927,513) in view of Hartmann (590,571).

Hart does not teach a method for separating, but he does teach a frame and a screen positioned over the frame, wherein the frame and screen are movable connected at one end and the screen is adjustable in height; the height of the screen can be raised at its adjustable end; material is poured onto the screen to be separated; and a motor is used to vibrate the screen to assist in passing material through the screen; and material that does not pass through the screen is collected in a removable trough.

Hart teaches all of the limitations of the claimed invention except for a platform attached to the frame for supporting the removable trough. Hartmann teaches a portable screening apparatus with a removable trough, k, that is supported on a platform, l.

It would have been obvious to one of ordinary skill in the art to use the platform and removable trough of Hartmann with the portable separator taught by Hart in order to easily transport the trough to dump the oversize pieces at a different location.

While the combination Hart in view of Hartmann does not specifically teach a method for separating, it would have been obvious to one of ordinary skill in the art to perform the method steps of claim 32 when using the apparatus taught by the combination Hart and Hartmann in its

Art Unit: 3653

usual and expected fashion as Hart teaches a separating apparatus that performs all of the claimed method steps.

Response to Arguments

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

After performing an updated search of the prior art the examiner found newly applied reference, Hartmann, that teaches the added limitations of a platform and a removable trough not connected to the frame. Therefore, claims 1-7, 9-17 and 32 remain rejected in view of the apparatus and method taught by the combination of Hart in view of Hartmann, as clearly discussed above.

Applicant's arguments with respect to claim 18 have been considered but are moot in view of the new ground(s) of rejection.

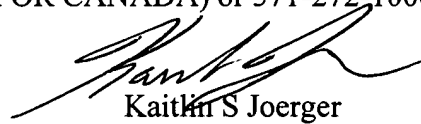
After performing an updated search of the prior art the examiner found newly applied reference, Bellany et al., that teaches the limitations of a mounting bracket the comprises a middle isolation layer. Therefore, claims 18-25, 30, and 31 remain rejected in view of the apparatus taught by the combination of Hart in view of Bellany et al., as clearly discussed above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kaitlin S. Joerger whose telephone number is 571-272-6938. The examiner can normally be reached on Monday - Friday 9-5.

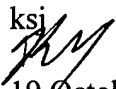
Art Unit: 3653

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey can be reached on 571-272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Kaitlin S Joerger
Examiner
Art Unit 3653

ksj


19 October 2006